

## REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance.

### I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 2-5, 8-30, and 32 are currently pending. Claims 8, 17, 23, and 32 are independent.

### II. REJECTIONS UNDER 35 U.S.C. §103

Claims 8, 3, 4, 9-13, 15-17, 19, 21-27, and 29-30 were rejected under 35 U.S.C. §103 as allegedly unpatentable over U.S. Patent No. 7,013,477 to **Nakamura** et al. (hereinafter, merely "Nakamura") in view of U.S. Patent No. 6,973,669 to **Daniels** in view of U.S. Patent No. 5,027,400 to **Baji** et al. (hereinafter, merely "Baji") in view of U.S. Patent No. 6,285,818 to **Suito** et al. (hereinafter, merely "Suito") and further in view of U.S. Patent No. 6,564,379 to **Knudsen** et al. (hereinafter, merely "Knudsen");

Claims 2 and 18 were rejected under 35 U.S.C. §103 as allegedly unpatentable over **Nakamura, Daniels, Baji, Suito, Knudsen** and further in view of U.S. Patent Application Publication No. 2002/0019769 of **Barritz** et al. (hereinafter, merely "Barritz");

Claims 5, 14, 20, and 28 were rejected under 35 U.S.C. §103 as allegedly unpatentable over **Nakamura, Daniels, Baji, Suito, Knudsen** and further in view of U.S. Patent Application Publication No. 2003/0192060 of **Levy**; and

Claim 32 was rejected under 35 U.S.C. §103 as allegedly unpatentable over **Nakamura** and **Baji**.

Applicants respectfully traverse these rejections.

Claim 32 is representative and recites, *inter alia*:

“receiving sequential broadcast information having a plurality of broadcast portions and a plurality of broadcast commercial portions, the plurality of broadcast commercial portions in a broadcast sequence and separating the broadcast portions;  
...  
storing the sequential broadcast information in the sequence as received;  
...  
reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and  
...  
subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions.”

The invention as claimed in claim 32 claims receiving broadcast information such as a broadcast program having commercials interspersed in the program (“receiving sequential broadcast information . . .”). The broadcast information is recorded as received, that is, program content separated by the commercials (“storing the sequential broadcast information in the sequence as received”). This is not uncommon in recording of broadcast programs.

When a user requests the recorded program be reproduced, the method reproduces all of the commercials from the broadcast information first (“reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions . . .”). Moreover, the reproduced commercials are arranged in the sequence as originally arranged in the program as broadcast (“in the broadcast sequence”). After all of the commercials

are reproduced, the method reproduces the stored broadcast program ("subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions . . .). However, the commercial portions are skipped over (" . . . and not reproducing the broadcast commercial portions").

Thus, in the method of claim 32, a receiver receives broadcast information having commercials separating the program portions in the usual manner. The broadcast program is stored as-received commercials and all. That is, the commercials are not separated out and stored separately from the program portions of the broadcast information. It is only at the time of reproduction of the broadcast information that all of the commercials are played first, in the sequence received from the broadcaster, then the method goes back and starts reproducing the broadcast information (which includes the commercials). However, the commercial portions are then skipped over (not reproduced).

As understood by Applicants, Nakamura discloses, in relevant part, a device that detects and stores a highlight scene of a broadcast program and also includes a commercial message (CM) detecting unit to detect a CM in a broadcast program. The Nakamura device reproduces the stored highlight scene instead of the CM in a broadcast program. Col. 5, lines 40-54; *See also*, col. 6, lines 6-21 and col. 7, lines 23-30. Thus, it is the intent of Nakamura that the CM in a broadcast program is not reproduced. That is, in Nakamura, the viewer does not view the commercials. Further, there is no suggestion in Nakamura of altering the sequence of the broadcast CM and broadcast program. That is, in Nakamura the program is viewed sequentially as broadcast and, when a CM is detected in the sequential broadcast, a highlight scene is

reproduced instead of the CM. Thus, the sequence of broadcast program and CM is not altered. Simply put, Nakamura is a method for replacing commercials with other video content when a broadcast is reproduced.

The Office Action at page 16, concedes that “Nakamura et al. fails to disclose reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions.”

The Office Action at page 16, points to Baji for the element missing from Nakamura.

As understood by Applicants, Baji discloses, in relevant part, a broadcast station that broadcasts a program and commercials. Commercials are inserted into the broadcast program according to a subscriber's desire. In Baji, the commercials are stored separately at the broadcast station. The broadcast station transmits broadcast information (program and commercials) according to a subscriber's desire.

Baji, is a broadcast apparatus that has an advertisement data base and a program data base. Each database is used so as to insert an advertisement desired by the subscriber into a program desired by the subscriber. Baji, col. 3, lines 40-55. Thus, Baji has a database of advertisements separate and distinct from the program portions.

The present invention as claimed in claim 32 is distinguished from Baji for at least two reasons: (1) claim 32 claims a receiver that operates on broadcast information having

commercial portions intermingled with program portions, whereas Baji is a broadcaster of broadcast information, (2) claim 32 recites the program portions and the commercial portions are stored together as received so there is no separate database of commercial portions and program portions.

The Office Action, at page 4, points to Baji, col. 3, line 58 to col. 4, line 13; and col. 8, lines 9-10. This is a misinterpretation and a misapplication of the disclosure in Baji.

**A.       BAJI IS INAPPOSITE TO CLAIM 32 BECAUSE  
          BAJI IS A TRANSMITTER AND CLAIM 32 IS  
          A RECEIVER**

First, Baji col. 3, line 58 to col. 4, line 13 is describing a broadcast end not a receiver as claimed in claim 32. In Baji, the broadcast end has an advertisement database and a program database to insert an advertisement into a program desired by a subscriber. The desired program and advertisements are transmitted to the subscriber in the desired order. Baji, col. 3, lines 42-51. The citation in the Office Action merely describes various ways the advertisements can be inserted into the program for broadcast to the subscriber. Baji, Table I. Thus, Baji is describing a transmitter of the broadcast information and how the commercials are included therewith.

Indeed, the commercials could be included between program segments. However, it remains that Baji is (1) storing video content and commercials separately, and (2) selecting from those databases to transmit video content and commercials in a particular order. Baji certainly is not receiving broadcast information including broadcast portions separated by commercial portions and then changing the sequence of those portions as recited in claim 32.

In stark contrast, claim 32 recites, “receiving sequential broadcast information . . . reproducing the stored broadcast information in a changed sequence.” This is on the “other end” of the broadcaster of the information, *i.e.*, from Baji. Baji is referring to the manner in which a broadcaster inserts commercials into broadcast information, not how the receiver of the broadcast information handles the received broadcast information.

Second, the Office Action points to Baji, col. 8, lines 9-10 which does describe insertion of commercials at the subscriber end. However, the Office Action takes the citation out of context by failing to read the subsequent description in Baji at col. 8, lines 17-29. According to Baji, the broadcast end only transmits a commercial associated with the video data before a point of time when the commercial is to be inserted into the video data. “The various video data items are not interrupted due to the commercial insertion and hence can be successive transmitted.” (Emphasis added). Col. 8, lines 23-25. Thus, again, Baji is describing how the broadcaster transmits the broadcast information.

In contrast, claim 32 recites, “receiving sequential broadcast information having a first sequence of broadcast portions and a second sequence of commercial portions, the commercial portions separating the broadcast portions.” That is, in the present invention, broadcast information are received and include broadcast portions separated by commercial portions. This is distinguishable from Baji (second embodiment at col. 8) wherein the video data items are not separated by the commercials.

**B.           BAJI STORES THE PROGRAM AND THE  
COMMERCIAL PORTIONS SEPARATELY  
WHEREAS CLAIM 32 STORES THE  
COMMERCIAL PORTIONS INTERSPERSED  
WITH THE PROGRAM PROTIONS**

Baji at col. 8 lines 30-48 refer to a receiver of the broadcast program that stores the commercials and the video data separately:

“In the subscriber system 116, there are disposed a commercial buffer 160 for temporarily store therein a commercial and a program buffer 161 for providing a wait time associated with a video signal from the video data base for the commercial insertion. The commercial insertion sequence is beforehand stored in the index of each video frame thus recorded, and hence a mixer 162 reads out video data from the commercial buffer 160 and the program buffer 161 according to the index so as to pass a composite or mixed signal to a television monitor 114. With this provision, a commercial and a program completely separated from each other in the prior art can be mixed with each other at a point of time so as to display the resultant image, which enables, for example, a motion picture program to be combined with a still picture commercial.” (emphasis added).

In contrast, in the method of claim 32, (1) the commercials are stored interspersed with the program in a sequence as determined by the broadcaster of the information, (2) upon reproduction, the method reproduces ALL of the commercials first, and moreover, (3) the sequence of commercials is that sequence determined by the broadcaster, not the user, because the commercials are reproduced in the sequence as received. Thus, as distinguished from Baji, in the method of claim 32, the commercials are interrupting the program content and are stored together in sequence as received, that is, along with the program content.

**CONCLUSION**

Claims 2-5, 8-30, and 32 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: 

Paul A. Levy  
Reg. No. 45,748  
(212) 588-0800